

REMARKS

In the **final** Office Action mailed May 7, 2010 the Examiner noted that claims 1-20 were pending and rejected claims 1-20. In this amendment claims 1-9 and 12-20 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 1-20 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

REJECTIONS under 35 U.S.C. § 112

Claims 1-19 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office asserts that the claims recite means plus language without providing corresponding structure in the Specification.

Applicants have amended claim 1 and its dependent to remove the use of means plus language. Claims 1 has been amended to recite "**a microcomputer programmed to perform: accessing** at least two ... **automatically forming...**" Support for the amendment may be found, for example, in ¶ 0050-0080 of the printed publication version of the Specification, defining the software means executable by servers, computers, etc.... The Applicants submit that no new matter is believed to have

been added by the amendment of the claims.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 1-10, 13-16 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Daly, U.S. Patent No. 5,878,141 in view of Giordano, U.S. Patent Publication No. 2009/0228336 in view of Kenner, U.S. Patent Publication No. 6,269,394. The Applicant respectfully disagrees and traverses the rejection with an amendment and argument.

Applicants have amended claim to recite "wherein said automatically forming a catalog of usable payment instruments comprises: acquiring data relating to at least one of the nature and data exchange capabilities of the receiver station; and establishing the catalog of usable payment instruments from a predetermined list of payment instruments authorized for access to said conditional access data and according to said acquired data relating to the receiver station." Support for the amendment may be found, for example, in ¶ 0069 of the printed publication version of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of claims 1 and 20.

The claims concerns the control of access to data on a conditional access server by a receiver according to billing and

credit data associated with a usable payment instrument selected from a catalogue of usable payment instruments by the user to pay for access to the data. The selectable usable payment instrument corresponds to an authorized access instrument compatible with the constitution and data exchange capabilities of the user station.

Daly on the other hand concerns an electronic purchase mediating system. Daly does not disclose the following features of claim 1, acquiring data relating to at least one of the nature and data exchange capabilities of the receiver station; establishing the catalog of usable payment instruments from a predetermined list of payment instruments authorized for access to said conditional access data and according to said acquired data relating to the receiver station; automatically determining parameters for the control of the data exchanges between the receiver station and the data server with conditional access according to the selected payment instrument and the corresponding credit or billing data; and exchanging control over said network according to the parameters thus determined.

As acknowledged by the Office in Daly does not concern the exchange of data between a receiver and a conditional access data server, nor does it concern the control of access by a receiver to conditional access data stored on a server. Instead, payment for a purchase of good or services of a merchant by a purchaser is simply accepted or denied according to billing data.

There is no disclosure of access to data on a merchant server by a purchaser server.

Moreover, there is no disclosure in Daly of a control server acquiring data relating to at least one of the nature and data exchange capabilities of the receiver station. The Examiner highlights col. 12, lines 28-42 as disclosing such data acquisition means.

However, this section simply describes the purchasing system determining whether or not a purchase amount exceeds a purchase allowance limit. There is no disclosure of teaching of acquiring data relating to the technical characteristics and capabilities of the receiver station.

The acquisition of such data enables a subset of usable payment instruments to be drawn up from a set of authorized payment instruments. The selected payment instrument is usable by the user in firstly that it is authorized, and secondly it is compatible with the receiver station and with the connection between the receiver station and the network.

For example a payment instrument for data exchange may require a particular software module to be downloaded to the receiver or a particular type of network connection.

Even if one of ordinary skill in the art were to look at Giordano he would not arrive at Claim 1 since Giordano does not teach each of the remaining features of the claim.

Giordano concerns a system and method for processing retail sale transactions. As in Daly there is no disclosure of the access to data at a merchant by a purchaser being controlled according to billing data. Moreover there is no disclosure of the acquisition of data relating to at least one of the nature and data exchange capabilities of the receiver station.

Kenner describes a system in which data content, such as video clip with limited access can only be accessed by authorized subscribers. Cost limits may be set by the user so that data content may be prevented from being downloaded if the cost limit is exceeded. There is no disclosure in Kenner on data content being controlled according to a selected payment instrument. Moreover there is no disclosure or teaching of the acquisition of data relating to at least one of the nature and data exchange capabilities of the receiver station, nor of the establishment of a list of usable user payment instruments from a list of authorized payment instruments according to the nature and data exchange capabilities of the receiver station.

For at least the reasons discussed above, Daly, Giordano and Kenner, taken separately or in combination, fail to render obvious the features of claims 1 and 20 and the claims dependent therefrom.

Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being obvious over Daly in view of Giordano in view of

Kenner in view of Riley, U.S. Patent Publication No. 2002/0010800.

Riley adds nothing to the deficiencies of Daly, Giordano and Kenner as applied to claim 1 as discussed above. Therefore, Daly, Giordano, Kenner and Riley, taken separately or in combination, fail to render obvious the features of claims 11 and 12.

Claims 17 stands rejected under 35 U.S.C. § 103(a) as being obvious over Daly in view of Giordano in view of Kenner in view of Adam, U.S. Patent Publication No. 2002/0181710.

Riley adds nothing to the deficiencies of Daly, Giordano and Kenner as applied to claim 1 as discussed above. Therefore, Daly, Giordano, Kenner and Riley, taken separately or in combination, fail to render obvious the features of claims 11 and 12

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112 and 103. It is also submitted that claims 1-20 continue to be allowable. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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